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APPLICATION NO.		FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/831,088		05/01/2001	Y. Tom Tang	PF-0622 USN	8378	
27904	7590	05/24/2004	EXAMINER			
INCYTE C			HUTSON, RICHARD G			
EXPERIME ROUTE 141		TATION RY CLAY ROAD	ART UNIT	PAPER NUMBER		
BLDG. E33	6		1652			
WILMINGT	TON, DE	E 19880		DATE MAILED: 05/24/2004	DATE MAILED: 05/24/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Examiner Art Unit Richard G Hutson International Company International									
## Examiner Richard G Hutson 1652 - The MAILING DATE of this communication appears on the cover sheat with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE of THIS COMMUNICATION. Extensions of time may be available under the provisione of 37 CPR 135(b), in no event, however, may a reply be through filed If the period for only specified above, the maintern distudency principle of the period of the reply is specified above, the maintern distudency principle of the period of the reply is specified above, the maintern distudency principle of the period of the reply specified above, the maintern distudency principle of the period of the pe			Application No.	Applicant(s)					
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THE MAILING DATE OF THIS COMMUNICATION. Extressions of the may be switched under the provision of 37 CFR 1.15(6). In no event, however, may a nepty be limitely filed after SIX (6) MONTHS from the mailing date of this communication. If the proof of mayly specified shallow is less than the You'd days, a reply within the attackery minimum of thirty (30) days will be considered timely. Falsur be reply within the set of restanded period for reply will, by a father, cause the application to become ABANDONED (35 U.S.C.§ 133). Any reply received by the Official extreme that there months after the mailing date of this communication, even if timely filed, may reduce any carried peter trium adjustment. See 37 CFR 1.74(b). Status 1) Responsive to communication(s) filed on 93 May 2004. 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 24-26 and 31-34 is/are pending in the application. 4a) Of the above claim(s) 32-34 is/are withdrawn from consideration. 5) Claim(s) 24-26 and 31 is/are allowed. 6) Claim(s) is/are rejected. 7) Claim(s) is/are rejected to. 8) Claim(s) is/are objected to. 8) Claim(s) may are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received in Application No. 2. Certified copies of the p	·								
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DETAILED ACTION

Claims 24-26, 31-34 are at issue and are present for examination.

Applicants' arguments filed on 5/3/2004, with respect to the rejoinder of the method claims 32-34, have been fully considered and are deemed not to be persuasive.

Rejoinder of method claims

As previously stated, applicants comments with respect to the rejoinder of claims 32-34 are also acknowledged, however as discussed previously, the methods of claims 32-34 are not subject to rejoinder as they do not recite methods of using the allowable product but instead methods of using fragments of the allowable product. The referred to claims 32-34 are not method of use of the allowable product, claims 24-26 and 31. The scope of those polynucleotides used by the methods of claims 32-34 is greater then the scope of those claims deemed allowable (i.e. claims 24-26 and 31) and thus claims 32-34 are not subject to rejoinder practice.

Allowable Subject Matter

Claims 24-26 and 31 are allowed.

This application is in condition for allowance except for the following formal matters:

Applicants are requested to cancel claims 32-34.

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Prosecution on the merits is closed in accordance with the practice under *Ex* parte Quayle, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **ONE**MONTHS from the mailing date of this letter.

This application is in condition for allowance except for the presence of claims 32-34 to an invention non-elected with traverse in paper of 2/6/2003. Applicant is given ONE MONTH or THIRTY DAYS from the date of this letter, whichever is longer, to cancel the noted claims or take other appropriate action (37 CFR 1.144). Failure to take action during this period will be treated as authorization to cancel the noted claims by Examiner's Amendment and pass the case to issue. Extensions of time under 37 CFR 1.136(a) will not be permitted since this application will be passed to issue.

The prosecution of this case is closed except for consideration of the above matter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard G Hutson whose telephone number is (571) 272-0930. The examiner can normally be reached on 7:30 am to 4:00 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapu Achutamurthy can be reached on (571) 272-0928. The fax

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phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Richard G Hutson, Ph.D. Primary Examiner Art Unit 1652

rgh 5/182004